Senate

General Assembly

File No. 630

February Session, 2006

Substitute Senate Bill No. 665

Senate, April 25, 2006

The Committee on Planning and Development reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT RESTRICTING THE USE OF EMINENT DOMAIN AND AUTHORIZING MUNICIPALITIES TO ESTABLISH SEPARATE RATES OF TAXATION FOR REAL ESTATE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 8-125 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to property acquired on or after said date*):

As used in this chapter:

[(a)**]** (1) "Redevelopment" means improvement by the rehabilitation or demolition of structures, by the construction of new structures, improvements or facilities, by the location or relocation of streets, parks and utilities, by replanning or by two or more of these methods;

[(b)**]** (2) "Redevelopment area" means an area within the state which is deteriorated, **[**deteriorating,**]** substandard or detrimental to the safety, health, morals or welfare of the community. An area may

consist partly or wholly of vacant or unimproved land or of land with structures and improvements thereon, and may include structures not in themselves substandard or insanitary which are found to be essential to complete an adequate unit of development, if the redevelopment area is deteriorated, **[**deteriorating,**]** substandard or detrimental. **[**An area may include properties not contiguous to each other.**]** An area may include all or part of the territorial limits of any fire district, sewer district, fire and sewer district, lighting district, village, beach or improvement association or any other district or association, wholly within a town and having the power to make appropriations or to levy taxes, whether or not such entity is chartered by the General Assembly;

[(c)**]** (3) A "redevelopment plan" **[**shall include: (1)**]** means a plan that includes: (A) A description of the redevelopment area and the condition, type and use of the structures therein; **[**(2)**]** (B) the location and extent of the land uses proposed for and within the area, such as housing, recreation, business, industry, schools, civic activities, open spaces or other categories of public and private uses; **[**(3)**]** (C) a determination whether or not the proposed land use for each property is for economic development; (D) the location and extent of streets and other public utilities, facilities and works within the area; **[**(4)**]** (E) schedules showing the number of families displaced by the proposed improvement, the method of temporary relocation of such families and the availability of sufficient suitable living accommodations at prices and rentals within the financial reach of such families and located within a reasonable distance of the area from which they are displaced; **[**(5)**]** (F) present and proposed zoning regulations in the redevelopment area; **[**(6)**]** and (G) any other detail including financial aspects of redevelopment which, in the judgment of the redevelopment agency authorized herein, is necessary to give it adequate information. The plan shall also include a preliminary statement describing the process for acquisition of each parcel of real property;

[(d)**]** (4) "Planning agency" means the existing city or town plan

commission or, if such agency does not exist or is not created, the legislative body or agency designated by it;

[(e)**]** (5) "Redeveloper" means any individual, group of individuals or corporation or any municipality or other public agency including any housing authority established pursuant to chapter 128;

[(f)**]** (6) "Real property" means land, subterranean or subsurface rights, structures, any and all easements, air rights and franchises and every estate, right or interest therein;

(7) "Economic development" means any land use that increases tax revenues, the tax base, employment or general economic health and does not result in (A) the transfer of land to public ownership, (B) the transfer of land to a railroad, (C) the transfer of property to a private entity when eminent domain will remove a threat to public health or safety such as public nuisances or structures that are beyond repair or unfit for human habitation or use, (D) the acquisition of abandoned property, or (E) the lease of property to private entities for an accessory use in a public project. "Economic development" includes, but is not limited to, an industrial purpose or a business purpose, as defined in section 8-187, as amended by this act.

Sec. 2. Section 8-127 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to property acquired on or after said date*):

The redevelopment agency may prepare, or cause to be prepared, a redevelopment plan and any redeveloper may submit a redevelopment plan to the redevelopment agency, and such agency shall immediately transmit such plan to the planning agency of the municipality for its study. The planning agency may make a comprehensive or general plan of the entire municipality as a guide in the more detailed and precise planning of redevelopment areas. Such plan and any modifications and extensions thereof shall show the location of proposed redevelopment areas and the general location and extent of use of land for housing, business, industry, communications

and transportation, recreation, public buildings and such other public and private uses as are deemed by the planning agency essential to the purpose of redevelopment. Appropriations by the municipality of any amount necessary are authorized to enable the planning agency to make such comprehensive or general plan. The redevelopment agency shall request the written opinion of the planning agency on all redevelopment plans prior to approving such redevelopment plans. Before approving any redevelopment plan, the redevelopment agency shall hold a public hearing thereon, notice of which shall be published at least twice in a newspaper of general circulation in the municipality, the first publication of notice to be not less than two weeks before the date set for the hearing. At least thirty-five days prior to the public hearing the redevelopment agency shall post the draft plan on the Internet web site of the redevelopment agency, if any. The redevelopment agency may approve any such redevelopment plan if, following such hearing, it finds that: **[**(a)**]** (1) The area in which the proposed redevelopment is to be located is a redevelopment area; **[**(b)**]** (2) the carrying out of the redevelopment plan will result in materially improving conditions in such area; **[**(c)**]** (3) sufficient living accommodations are available within a reasonable distance of such area or are provided for in the redevelopment plan for families displaced by the proposed improvement, at prices or rentals within the financial reach of such families; and **[**(d)**]** (4) the redevelopment plan is satisfactory as to site planning, relation to the comprehensive or general plan of the municipality and, except when the redevelopment agency has prepared the redevelopment plan, the construction and financial ability of the redeveloper to carry it out. No redevelopment plan for a project which consists predominantly of residential facilities shall be approved by the redevelopment agency in any municipality having a housing authority organized under the provisions of chapter 128 except with the approval of such housing authority. The approval of a redevelopment plan may be given by the legislative body or by such agency as it designates to act in its behalf.

Sec. 3. Section 8-128 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and*

applicable to property acquired on or after said date):

(a) Within a reasonable time after its approval of the redevelopment plan as hereinbefore provided, the redevelopment agency may proceed with the acquisition or rental of real property by purchase, lease, exchange or gift. The redevelopment agency may acquire real property by eminent domain with the approval of the legislative body of the municipality and in accordance with the provisions of sections 8-129 to 8-133, inclusive, and this section. The legislative body in its approval of a project under section 8-127 shall specify the time within which real property is to be acquired. There shall be a separate vote on the acquisition of each parcel to be acquired in accordance with the redevelopment plan. No parcel of real property may be acquired by eminent domain more than five years after approval of the redevelopment plan unless the redevelopment agency submits documentation to the legislative body sufficient for such legislative body to determine that acquisition of such parcel is necessary to implement the redevelopment plan. Notwithstanding the provisions of this section, no parcel of real property may be acquired by eminent domain (1) for economic development, or (2) if an owner-occupied dwelling unit that complies with local building and zoning requirements is located on such parcel. The time for acquisition may be extended by the legislative body in accordance with section 48-6, upon request of the redevelopment agency, provided the owner of the real property consents to such request. Real property may be acquired previous to the adoption or approval of the project area redevelopment plan, provided the property acquired shall be located within an area designated on the general plan as an appropriate redevelopment area or within an area whose boundaries are defined by the planning commission as an appropriate area for a redevelopment project, and provided such acquisition shall be authorized by the legislative body. The redevelopment agency may clear, repair, operate or insure such property while it is in its possession or make site improvements essential to preparation for its use in accordance with the redevelopment plan.

(b) If real property acquired by eminent domain on or after the effective date of this section is not used for the purpose for which it was acquired or for some other public use not more than five years after such acquisition, the property shall be offered for sale to the person from whom the property was acquired, or the person's known or ascertainable heirs, successors or assigns, if any, for a price not greater than the value documented in the recorded findings, less the value of any structures or improvements removed from the property by the redevelopment agency or its designee after the real property was acquired. If such person, heirs, successors or assigns do not purchase the property, the development agency may retain ownership of the property or sell the property to any other person.

Sec. 4. Section 8-129 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to property acquired on or after said date*):

(a) The redevelopment agency shall determine the compensation to be paid to the persons entitled thereto for **[**such**]** real property **[**and**]** to be taken pursuant to section 8-128, as amended by this act. The amount of compensation may exceed the fair market value of the real property and in determining such amount the redevelopment agency may consider any factor it deems relevant, including, but not limited to, the number of years of ownership and lost good will. As used in this subsection, "good will" means the benefits that accrue to a business from its location, reputation for dependability, skill or quality and any other circumstances resulting in probable retention of old or acquisition of new patronage.

(b) The redevelopment agency shall file a statement of compensation, containing a description of the property to be taken and the names of all persons having a record interest therein and setting forth the amount of such compensation, and a deposit as provided in section 8-130, with the clerk of the superior court for the judicial district in which the property affected is located. Upon filing such statement of compensation and deposit, the redevelopment agency

shall forthwith cause to be recorded, in the office of the town clerk of each town in which the property is located, a copy of such statement of compensation, such recording to have the same effect and to be treated the same as the recording of a lis pendens, and shall forthwith give notice, as provided in this section, to each person appearing of record as an owner of property affected thereby and to each person appearing of record as a holder of any mortgage, lien, assessment or other encumbrance on such property or interest therein **[**(a)**]** (1) in the case of any such person found to be residing within this state, by causing a copy of such notice, with a copy of such statement of compensation, to be served upon each such person by a state marshal, constable or indifferent person, in the manner set forth in section 52-57, as amended, for the service of civil process, and **[**(b)**]** (2) in the case of any such person who is a nonresident of this state at the time of the filing of such statement of compensation and deposit or of any such person whose whereabouts or existence is unknown, by mailing to each such person a copy of such notice and of such statement of compensation, by registered or certified mail, directed to his last-known address, and by publishing such notice and such statement of compensation at least twice in a newspaper published in the judicial district and having daily or weekly circulation in the town in which such property is located. The redevelopment agency shall provide each such person with a copy of each appraisal of the property prepared for such agency. Any such published notice shall state that it is notice to the widow or widower, heirs, representatives and creditors of the person holding such record interest, if such person is dead. If, after a reasonably diligent search, no last-known address can be found for any interested party, an affidavit stating such fact, and reciting the steps taken to locate such address, shall be filed with the clerk of the superior court and accepted in lieu of mailing to the last-known address. Not less than **[**twelve**]** forty-five days or more than ninety days after such notice and such statement of compensation have been so served or so mailed and first published, the redevelopment agency shall file with the clerk of the superior court a return of notice setting forth the notice given and, upon receipt of such return of notice, such clerk shall, without any delay or

continuance of any kind, issue a certificate of taking setting forth the fact of such taking, a description of all the property so taken and the names of the owners and of all other persons having a record interest therein. The redevelopment agency shall cause such certificate of taking to be recorded in the office of the town clerk of each town in which such property is located. Upon the recording of such certificate, title to such property in fee simple shall vest in the municipality, and the right to just compensation shall vest in the persons entitled thereto. At any time after such certificate of taking has been so recorded, the redevelopment agency may repair, operate or insure such property and enter upon such property, and take any action that is proposed with regard to such property by the project area redevelopment plan. The notice referred to above shall state that **[**(1)**]** (A) not less than **[**twelve**]** forty-five days or more than ninety days after service or mailing and first publication thereof, the redevelopment agency shall file, with the clerk of the superior court for the judicial district in which such property is located, a return setting forth the notice given, **[**(2)**]** (B) upon receipt of such return, such clerk shall issue a certificate for recording in the office of the town clerk of each town in which such property is located, **[**(3)**]** (C) upon the recording of such certificate, title to such property shall vest in the municipality, the right to just compensation shall vest in the persons entitled thereto and the redevelopment agency may repair, operate or insure such property and enter upon such property and take any action that may be proposed with regard thereto by the project area redevelopment plan, and **[**(4)**]** (D) such notice shall bind the widow or widower, heirs, representatives and creditors of each person named therein who then or thereafter may be dead. When any redevelopment agency acting on behalf of any municipality has acquired or rented real property by purchase, lease, exchange or gift in accordance with the provisions of this section, or in exercising its right of eminent domain has filed a statement of compensation and deposit with the clerk of the superior court and has caused a certificate of taking to be recorded in the office of the town clerk of each town in which such property is located as provided in this section, any judge of such court may, upon

application and proof of such acquisition or rental or such filing and deposit and such recording, order such clerk to issue an execution commanding a state marshal to put such municipality and the redevelopment agency, as its agent, into peaceable possession of the property so acquired, rented or condemned. The provisions of this section shall not be limited in any way by the provisions of chapter 832.

Sec. 5. Section 8-187 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to property acquired on or after said date*):

As used in this chapter, (1) "municipality" means a town, city, consolidated town and city or consolidated town and borough; (2) "legislative body" means (A) the board of selectmen in a town that does not have a charter, special act or home rule ordinance relating to its government, or (B) the council, board of aldermen, representative town meeting, board of selectmen or other elected legislative body described in a charter, special act or home rule ordinance relating to government in a city, consolidated town and city, consolidated town and borough or a town having a charter, special act, consolidation ordinance or home rule ordinance relating to its government; (3) "development agency" means the agency designated by a municipality under section 8-188 through which the municipality may exercise the powers granted under this chapter; (4) "development project" means a project conducted by a municipality for the assembly, improvement and disposition of land or buildings or both to be used principally for industrial or business purposes and includes vacated commercial plants; (5) "vacated commercial plants" means buildings formerly used principally for business or industrial purposes of which more than fifty per cent of the usable floor space is, or which it is anticipated, within eighteen months, shall be, unused or substantially underutilized; (6) "project area" means the area within which the development project is located; (7) "commissioner" means the Commissioner of Economic and Community Development; (8) "planning commission" means the planning and zoning commission designated pursuant to section 8-4a

or the planning commission created pursuant to section 8-19; (9) "real property" means land, subterranean or subsurface rights, structures, any and all easements, air rights and franchises and every estate, right or interest therein; **[**and**]** (10) "business purpose" includes, but is not limited to, any commercial, financial or retail enterprise and includes any enterprise which promotes tourism and any property that produces income; and (11) "economic development" means any land use that increases tax revenues, the tax base, employment or general economic health and that does not result in (A) the transfer of land to public ownership, (B) the transfer of land to a railroad, (C) the transfer of property to a private entity when eminent domain will remove a threat to public health or safety such as public nuisances or structures that are beyond repair or unfit for human habitation or use, (D) the acquisition of abandoned property, or (E) the lease of property to private entities for an accessory use in a public project and includes an industrial purpose or a business purpose.

Sec. 6. Section 8-189 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to property acquired on or after said date*):

The development agency may initiate a development project by preparing a project plan therefor in accordance with regulations of the commissioner. The project plan shall meet an identified public need and include: **[**(a)**]** (1) A legal description of the land within the project area; **[**(b)**]** (2) a description of the present condition and uses of such land or building; **[**(c)**]** (3) a description of the process utilized by the agency to prepare the plan along with alternative approaches considered to achieve project objectives; (4) a description of the types and locations of land uses or building uses proposed for the project area; **[**(d)**]** (5) a description of the types and locations of present and proposed streets, sidewalks and sanitary, utility and other facilities and the types and locations of other proposed site improvements; **[**(e)**]** (6) statements of the present and proposed zoning classification and subdivision status of the project area and the areas adjacent to the project area; **[**(f)**]** (7) a plan for relocating project-area occupants; **[**(g)**]**

(8) a financing plan; [(h)] (9) an administrative plan; [(i)] (10) a marketability and proposed land-use study or building use study if required by the commissioner; [(j)] (11) appraisal reports and title searches; [(k)] (12) a statement of public benefits including, but not limited to, (A) the number of jobs which the development agency anticipates would be created by the project and the number and types of existing housing units in the municipality in which the project would be located, and in contiguous municipalities, which would be available to employees filling such jobs; (B) an estimate of the amount of local tax revenue to be generated by the project; (C) a description of infrastructure improvements, including public access, facilities or use; (D) a description of any blight remediation or environmental remediation; (E) a description of any aesthetic improvements to be generated by the project; (F) a description of the project's role in increasing or sustaining market value of land in the municipality; (G) a description of the project's role in assisting residents of the municipality to improve their standard of living; and (H) a statement of the project's role in maintaining or enhancing the competitiveness of the municipality; (13) a determination whether or not the proposed land is to be used for economic development; and [(l)] (14) findings that the land and buildings within the project area will be used principally for industrial or business purposes; that the plan is in accordance with the plan of development for the municipality adopted by its planning commission under section 8-23, as amended, and the plan of development of the regional planning agency adopted under section 8-35a, as amended, if any, for the region within which the municipality is located; that the plan is not inimical to [any] the state plan of conservation and development adopted under chapter 297 and any other state-wide planning program objectives of the state or state agencies as coordinated by the Secretary of the Office of Policy and Management; that the project will contribute to the economic welfare of the municipality and the state; and that to carry out and administer the project, public action under this chapter is required. The plan shall also include a preliminary statement describing the process for acquisition of each parcel of real property. Any plan which has been

prepared by a redevelopment agency under chapter 130 may be submitted by the development agency to the legislative body and to the commissioner in lieu of a plan initiated and prepared in accordance with this section, provided all other requirements of this chapter for obtaining the approval of the commissioner of the project plan are satisfied.

Sec. 7. Section 8-191 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to property acquired on or after said date*):

(a) Before the development agency adopts a plan for a development project, (1) the planning commission of the municipality shall find that the plan is in accord with the plan of development for the municipality; and (2) the regional planning agency, if any, for the region within which such municipality is located shall find that such plan is in accord with the plan of development for such region, or if such agency fails to make a finding concerning said plan within thirty-five days of receipt thereof by such agency, it shall be presumed that such agency does not disapprove of such plan; and (3) the development agency shall hold at least one public hearing thereon. At least thirty-five days prior to any public hearing the development agency shall post the draft plan on the Internet web site of the development agency, if any. Upon approval by the development agency, the agency shall submit such plan to the legislative body which shall vote to approve or disapprove the plan. After approval of the plan by the legislative body, the development agency shall submit the plan for approval to the commissioner. Notice of the time, place and subject of any public hearing held under this section shall be published once in a newspaper of general circulation in such town, such publication to be made not less than one week nor more than three weeks prior to the date set for the hearing. In the event the commissioner requires a substantial modification of the project plan before giving approval, then upon the completion of such modification such plan shall first have a public hearing and then be approved by the development agency and the legislative body. Any legislative body,

agency or commission in approving a plan for a development project shall specifically approve the findings made therein.

(b) The provisions of subsection (a) of this section with respect to submission of a development project to and approval by the commissioner shall not apply to a project for which no grant has been made under section 8-190 and no application for a grant is to be made under section 8-195.

Sec. 8. Section 8-193 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to property acquired on or after said date*):

(a) After approval of the development plan as provided in this chapter, the development agency may proceed by purchase, lease, exchange or gift with the acquisition or rental of real property within the project area and real property and interests therein for rights-of-way and other easements to and from the project area. The development agency may, with the approval of the legislative body, and in the name of the municipality, acquire by eminent domain real property located within the project area and real property and interests therein for rights-of-way and other easements to and from the project area, in the same manner that a redevelopment agency may acquire real property under sections 8-128 to 8-133, inclusive, as amended by this act, as if said sections specifically applied to development agencies. Notwithstanding the provisions of this section, no parcel of real property may be acquired by eminent domain (1) for economic development, or (2) if an owner-occupied dwelling unit that complies with local building and zoning requirements is located on such parcel. There shall be a separate vote on the acquisition of each parcel to be acquired in accordance with the development plan. No parcel of real property may be acquired by eminent domain more than five years after the approval of the development plan unless the development agency submits documentation to the legislative body sufficient for such legislative body to determine that acquisition of such parcel is necessary to implement the development plan. The development

agency may, with the approval of the legislative body and, of the commissioner if any grants were made by the state under section 8-190 or 8-195 for such development project, and in the name of such municipality, transfer by sale or lease at fair market value or fair rental value, as the case may be, the whole or any part of the real property in the project area to any person, in accordance with the project plan and such disposition plans as may have been determined by the commissioner.

(b) A development agency shall have all the powers necessary or convenient to undertake and carry out development plans and development projects, including the power to clear, demolish, repair, rehabilitate, operate, or insure real property while it is in its possession, to make site improvements essential to the preparation of land for its use in accordance with the development plan, to install, construct or reconstruct streets, utilities and other improvements necessary for carrying out the objectives of the development project, and, in distressed municipalities, as defined in section 32-9p, to lend funds to businesses and industries in a manner approved by the commissioner.

(c) If real property acquired by eminent domain on or after the effective date of this section is not used for the purpose for which it was acquired or for some other public use not more than five years after such acquisition, the property shall be offered for sale to the person from whom the property was acquired, or the person's known or ascertainable heirs, successors or assigns, if any, for a price not greater than the value documented in the recorded findings, less the value of any structures or improvements removed from the property by the development agency or its designee after the real property was acquired. If such person, heirs, successors or assigns do not purchase the property, the development agency may retain ownership of the property or sell the property to any other person.

Sec. 9. (NEW) (*Effective July 1, 2006*) (a) The Secretary of the Office of Policy and Management shall establish a grant program to reimburse

any person who owns property that was acquired by eminent domain under section 8-128 or 8-193 of the general statutes, as amended by this act, for two-thirds of the reasonable cost, including attorney's fees, incurred by such owner in any legal action contesting such acquisition. Grants shall be paid only upon final disposition of the legal action.

(b) The Secretary of the Office of Policy and Management shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, for the administration of this section. Such regulations shall include provisions for application for grants and eligibility and documentation of costs.

Sec. 10. Subparagraph (A) of subdivision (3) of subsection (c) of section 7-148 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to property acquired on or after said date*):

(3) (A) Take or acquire by gift, purchase, grant, including any grant from the United States or the state, bequest or devise and hold, condemn, lease, sell, manage, transfer, release and convey such real and personal property or interest therein absolutely or in trust as the purposes of the municipality or any public use **[**or purpose**]** require, including that of education, art, ornament, health, charity or amusement, cemeteries, parks or gardens, or the erection or maintenance of statues, monuments, buildings or other structures. **[**, or the encouragement of private commercial development, require.**]** Any lease of real or personal property or any interest therein, either as lessee or lessor, may be for such term or any extensions thereof and upon such other terms and conditions as have been approved by the municipality, including without limitation the power to bind itself to appropriate funds as necessary to meet rent and other obligations as provided in any such lease.

Sec. 11. Section 32-224 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage and applicable to property acquired on or after said date*):

(a) Any municipality which has a planning commission may, by vote of its legislative body, designate an implementing agency to exercise the powers granted under sections 32-220 to 32-234, inclusive. Any municipality may, with the approval of the commissioner, designate a separate implementing agency for each municipal development project undertaken by such municipality pursuant to said sections.

(b) The implementing agency may initiate a municipal development project by preparing and submitting a development plan to the commissioner. Such plan shall meet an identified public need and include: (1) A legal description of the real property within the boundaries of the project area; (2) a description of the present condition and uses of such real property; (3) a description of the process utilized by the agency to prepare the plan along with alternative approaches considered to achieve project objectives; (4) a description of the types and locations of land uses or building uses proposed for the project area; **[**(4)**]** (5) a description of the types and locations of present and proposed streets, sidewalks and sanitary, utility and other facilities and the types and locations of other proposed project improvements; **[**(5)**]** (6) statements of the present and proposed zoning classification and subdivision status of the project area and the areas adjacent to the project area; **[**(6)**]** (7) a plan for relocating project area occupants; **[**(7)**]** (8) a financing plan; **[**(8)**]** (9) an administrative plan; **[**(9)**]** (10) an environmental analysis, marketability and proposed land use study, or building use study if required by the commissioner; **[**(10)**]** (11) appraisal reports and title searches if required by the commissioner; **[**(11)**]** (12) a description of the **[**economic**]** public benefit of the project, including, but not limited to, (A) the number of jobs which the implementing agency anticipates would be created or retained by the project, (B) the estimated property tax benefits, **[**and**]** (C) the number and types of existing housing units in the municipality in which the project would be located, and in contiguous municipalities, which would be available to employees filling such jobs, (D) a description of infrastructure improvements, including public access, facilities or use, (E) a description of any blight

remediation or environmental remediation, (F) a description of any aesthetic improvements to be generated by the project, (G) a description of the project's role in increasing or sustaining market value of land in the municipality, (H) a description of the project's role in assisting residents of the municipality to improve their standard of living, and (I) a statement of the project's role in maintaining or enhancing the competitiveness of the municipality; and **[**(12)**]** (13) a finding that (A) the land and buildings within the boundaries of the project area will be used principally for manufacturing or other economic base business purposes or business support services; (B) the plan is in accordance with the plan of development for the municipality, if any, adopted by its planning commission and the plan of development of the regional planning agency, if any, for the region within which the municipality is located; (C) the plan is not inimical to any state-wide planning program objectives of the state or state agencies as coordinated by the Secretary of the Office of Policy and Management; and (D) the project will contribute to the economic welfare of the municipality and the state and that to carry out and administer the project, public action under sections 32-220 to 32-234, inclusive, is required. The provisions of this subsection with respect to submission of a development plan to and approval by the commissioner and with respect to a finding that the plan is not inimical to any state-wide planning program objectives of the state or its agencies shall not apply to a project for which no financial assistance has been given and no application for financial assistance is to be made under section 32-223. Any plan which has been prepared under chapters 130, 132 or 588a may be submitted by the implementing agency to the legislative body of the municipality and to the commissioner in lieu of a plan initiated and prepared in accordance with this section, provided all other requirements of sections 32-220 to 32-234, inclusive, for obtaining the approval of the commissioner of the development plan are satisfied. Any action taken in connection with the preparation and adoption of such plan shall be deemed effective to the extent such action satisfies the requirements of said sections.

(c) No plan shall be adopted unless the planning commission of the

municipality finds that the plan is in accord with the plan of development, if any, for the municipality and the regional planning agency, if any, organized under chapter 127 for the region within which such municipality is located finds that such plan is in accord with the plan of development, if any, for such region. If the regional planning agency fails to make a finding concerning the plan within thirty-five days of receipt thereof, by such agency, it shall be presumed that such agency does not disapprove of the plan. The implementing agency shall hold at least one public hearing on the plan and shall cause notice of the time, place, and subject of any public hearing to be published at least once in a newspaper of general circulation in the municipality not less than one week nor more than three weeks prior to the date of such public hearing. At least thirty-five days prior to the public hearing the redevelopment agency shall post the draft plan on the Internet web site of the redevelopment agency, if any. Upon adoption the implementing agency shall submit the plan to the legislative body of the municipality for approval or disapproval. Any approval by the implementing agency and legislative body of the municipality made under this section shall specifically provide for approval of any findings contained therein. After approval of the plan by the legislative body of the municipality, such plan shall be submitted to the commissioner for his approval. If the commissioner requires a substantial modification of the plan as a condition of approval, the plan shall be subject to a public hearing and approval by the implementing agency and the legislative body of the municipality in accordance with the provisions of this subsection.

(d) A development plan may be modified at any time by the implementing agency, provided, if modified after the lease or sale of real property in the project area, the lessees or purchasers of such real property or their successor or successors in interest affected by the proposed modification shall consent to such modification. If the proposed modification will substantially alter the development plan as previously approved, the modification shall be subject to the approval of the local legislative body of the municipality and the commissioner in the same manner as approval of the development plan. The

municipality may, by vote of its legislative body, abandon the development plan and convey such real property within the boundaries of the project area free of any restriction, obligation or procedure imposed by the plan subject to all other local and state laws, ordinances or regulations if after three years from the date of approval of the plan the implementing agency has not transferred by sale or lease all or any part of the real property acquired in the project area to any person in accordance with the development plan and no grant of financial assistance under sections 32-220 to 32-234, inclusive, has been given for such project other than for activities related to the planning of the project pursuant to section 32-222.

(e) The implementing agencies of two or more municipalities may, after approval by each legislative body thereof, jointly initiate a development project if the project area is to be located in one or more of such municipalities. Such implementing agencies, after approval by the commissioner of the development plan for the project if any state aid is to be requested under section 32-223, may enter into and amend subject to the approval of the commissioner, an agreement to jointly carry out the development plan. Such agreement may include provisions for furnishing municipal services to the project and sharing costs of and revenues from the project, including property tax and rental receipts. The development plan shall include a proposed form of the agreement to be entered into by the municipalities. Each municipality which is a party to an agreement may make appropriations and levy taxes in accordance with the provisions of the general statutes and may issue bonds in accordance with section 32-227 to further its obligations under the agreement.

(f) As used in this subsection, "public service facility" includes any sewer, pipe, main conduit, cable, wire, pole, tower, building or utility appliance owned or operated by an electric, gas, telephone, telegraph or water company. Whenever an implementing agency determines that the closing of any street or public right-of-way is provided for in a development plan adopted and approved in accordance with sections 32-220 to 32-234, inclusive, or where the carrying out of such a

development plan, including the construction of new improvements, requires the temporary or permanent readjustment, relocation or removal of a public service facility from a street or public right-of-way, the implementing agency shall issue an appropriate order to the company owning or operating such facility. Such company shall permanently or temporarily readjust, relocate or remove the public service facility promptly in accordance with such order, provided an equitable share of the cost of such readjustment, relocation or removal, including the cost of installing and constructing a facility of equal capacity in a new location, shall be borne by the implementing agency. Such equitable share shall be fifty per cent of such cost after the deduction hereinafter provided. In establishing the equitable share of the cost to be borne by the implementing agency, there shall be deducted from the cost of the readjusted, relocated or removed facilities a sum based on a consideration of the value of materials salvaged from existing installations, the cost of the original installation, the life expectancy of the original facility and the unexpired term of such life use. The books and records of the company shall be made available for inspection by the implementing agency to determine the equitable share of the cost of such readjustment, relocation or removal. When any facility is removed from a street or public right-of-way to a private right-of-way, the implementing agency shall not pay for such private right-of-way. If the implementing agency and the company owning or operating such facility cannot agree upon the share of the cost to be borne by the implementing agency, such agency or the company may apply to the superior court for the judicial district within which the street or public right-of-way is situated, or, if the court is not in session, to any judge thereof, for a determination of the cost to be borne by the implementing agency. The court or the judge, after causing notice of the pendency of such application to be given to the other party, shall appoint a state referee to make such determination. The referee, having given at least ten days' notice to the interested parties of the time and place of the hearing, shall hear both parties, take such testimony as he may deem material and thereupon determine the amount of the cost to be borne by the implementing

agency. The referee shall immediately report the amount to the court. If the report is accepted by the court, such determination shall, subject to right of appeal as in civil actions, be conclusive upon such parties.

(g) After approval of the development plan pursuant to sections 32-220 to 32-234, inclusive, the implementing agency may by purchase, lease, exchange or gift acquire or rent real property necessary or appropriate for the project as identified in the development plan and real property and interests therein for rights-of-way and other easements to and from the project area. The implementing agency may, with the approval of the legislative body of the municipality, and in the name of the municipality, condemn in accordance with section 8-128 to 8-133, inclusive, as amended by this act, any real property necessary or appropriate for the project as identified in the development plan, including real property and interests in land for rights-of-way and other easements to and from the project area.

Sec. 12. Subsection (b) of section 1-210 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) Nothing in the Freedom of Information Act shall be construed to require disclosure of:

(1) Preliminary drafts or notes provided the public agency has determined that the public interest in withholding such documents clearly outweighs the public interest in disclosure;

(2) Personnel or medical files and similar files the disclosure of which would constitute an invasion of personal privacy;

(3) Records of law enforcement agencies not otherwise available to the public which records were compiled in connection with the detection or investigation of crime, if the disclosure of said records would not be in the public interest because it would result in the disclosure of (A) the identity of informants not otherwise known or the identity of witnesses not otherwise known whose safety would be

endangered or who would be subject to threat or intimidation if their identity was made known, (B) signed statements of witnesses, (C) information to be used in a prospective law enforcement action if prejudicial to such action, (D) investigatory techniques not otherwise known to the general public, (E) arrest records of a juvenile, which shall also include any investigatory files, concerning the arrest of such juvenile, compiled for law enforcement purposes, (F) the name and address of the victim of a sexual assault under section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a, or injury or risk of injury, or impairing of morals under section 53-21, or of an attempt thereof, or (G) uncorroborated allegations subject to destruction pursuant to section 1-216;

(4) Records pertaining to strategy and negotiations with respect to pending claims or pending litigation to which the public agency is a party until such litigation or claim has been finally adjudicated or otherwise settled;

(5) (A) Trade secrets, which for purposes of the Freedom of Information Act, are defined as information, including formulas, patterns, compilations, programs, devices, methods, techniques, processes, drawings, cost data, or customer lists that (i) derive independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from their disclosure or use, and (ii) are the subject of efforts that are reasonable under the circumstances to maintain secrecy; and

(B) Commercial or financial information given in confidence, not required by statute;

(6) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examinations;

(7) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by an agency relative to the

acquisition of property or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all proceedings or transactions have been terminated or abandoned, **[**provided the law of eminent domain shall not be affected by this provision**]** except that the provisions of this section shall not apply to such appraisals, estimates or evaluations made for or by the agency relative to the acquisition of property by eminent domain;

(8) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such licensing agency to establish the applicant's personal qualification for the license, certificate or permit applied for;

(9) Records, reports and statements of strategy or negotiations with respect to collective bargaining;

(10) Records, tax returns, reports and statements exempted by federal law or state statutes or communications privileged by the attorney-client relationship;

(11) Names or addresses of students enrolled in any public school or college without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and a parent or guardian of each such student who is younger than eighteen years of age, provided this subdivision shall not be construed as prohibiting the disclosure of the names or addresses of students enrolled in any public school in a regional school district to the board of selectmen or town board of finance, as the case may be, of the town wherein the student resides for the purpose of verifying tuition payments made to such school;

(12) Any information obtained by the use of illegal means;

(13) Records of an investigation or the name of an employee providing information under the provisions of section 4-61dd, as amended;

(14) Adoption records and information provided for in sections 45a-

746, 45a-750 and 45a-751;

(15) Any page of a primary petition, nominating petition, referendum petition or petition for a town meeting submitted under any provision of the general statutes or of any special act, municipal charter or ordinance, until the required processing and certification of such page has been completed by the official or officials charged with such duty after which time disclosure of such page shall be required;

(16) Records of complaints, including information compiled in the investigation thereof, brought to a municipal health authority pursuant to chapter 368e or a district department of health pursuant to chapter 368f, until such time as the investigation is concluded or thirty days from the date of receipt of the complaint, whichever occurs first;

(17) Educational records which are not subject to disclosure under the Family Educational Rights and Privacy Act, 20 USC 1232g;

(18) Records, the disclosure of which the Commissioner of Correction, or as it applies to Whiting Forensic Division facilities of the Connecticut Valley Hospital, the Commissioner of Mental Health and Addiction Services, has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility under the supervision of the Department of Correction or Whiting Forensic Division facilities. Such records shall include, but are not limited to:

(A) Security manuals, including emergency plans contained or referred to in such security manuals;

(B) Engineering and architectural drawings of correctional institutions or facilities or Whiting Forensic Division facilities;

(C) Operational specifications of security systems utilized by the Department of Correction at any correctional institution or facility or Whiting Forensic Division facilities, except that a general description of any such security system and the cost and quality of such system may be disclosed;

(D) Training manuals prepared for correctional institutions and facilities or Whiting Forensic Division facilities that describe, in any manner, security procedures, emergency plans or security equipment;

(E) Internal security audits of correctional institutions and facilities or Whiting Forensic Division facilities;

(F) Minutes or recordings of staff meetings of the Department of Correction or Whiting Forensic Division facilities, or portions of such minutes or recordings, that contain or reveal information relating to security or other records otherwise exempt from disclosure under this subdivision;

(G) Logs or other documents that contain information on the movement or assignment of inmates or staff at correctional institutions or facilities; and

(H) Records that contain information on contacts between inmates, as defined in section 18-84, and law enforcement officers;

(19) Records when there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person, any government-owned or leased institution or facility or any fixture or appurtenance and equipment attached to, or contained in, such institution or facility, except that such records shall be disclosed to a law enforcement agency upon the request of the law enforcement agency. Such reasonable grounds shall be determined (A) with respect to records concerning any executive branch agency of the state or any municipal, district or regional agency, by the Commissioner of Public Works, after consultation with the chief executive officer of the agency; (B) with respect to records concerning Judicial Department facilities, by the Chief Court Administrator; and (C) with respect to records concerning the Legislative Department, by the executive director of the Joint Committee on Legislative Management. As used in this section, "government-owned or leased institution or facility" includes, but is not limited to, an institution or facility owned or leased by a public service company, as defined in section 16-1, as amended, a certified

telecommunications provider, as defined in section 16-1, as amended, a water company, as defined in section 25-32a, or a municipal utility that furnishes electric, gas or water service, but does not include an institution or facility owned or leased by the federal government, and "chief executive officer" includes, but is not limited to, an agency head, department head, executive director or chief executive officer. Such records include, but are not limited to:

(i) Security manuals or reports;

(ii) Engineering and architectural drawings of government-owned or leased institutions or facilities;

(iii) Operational specifications of security systems utilized at any government-owned or leased institution or facility, except that a general description of any such security system and the cost and quality of such system, may be disclosed;

(iv) Training manuals prepared for government-owned or leased institutions or facilities that describe, in any manner, security procedures, emergency plans or security equipment;

(v) Internal security audits of government-owned or leased institutions or facilities;

(vi) Minutes or records of meetings, or portions of such minutes or records, that contain or reveal information relating to security or other records otherwise exempt from disclosure under this subdivision;

(vii) Logs or other documents that contain information on the movement or assignment of security personnel at government-owned or leased institutions or facilities;

(viii) Emergency plans and emergency recovery or response plans; and

(ix) With respect to a water company, as defined in section 25-32a, that provides water service: Vulnerability assessments and risk

management plans, operational plans, portions of water supply plans submitted pursuant to section 25-32d that contain or reveal information the disclosure of which may result in a security risk to a water company, inspection reports, technical specifications and other materials that depict or specifically describe critical water company operating facilities, collection and distribution systems or sources of supply;

(20) Records of standards, procedures, processes, software and codes, not otherwise available to the public, the disclosure of which would compromise the security or integrity of an information technology system;

(21) The residential, work or school address of any participant in the address confidentiality program established pursuant to sections 54-240 to 54-240o, inclusive;

(22) The electronic mail address of any person that is obtained by the Department of Transportation in connection with the implementation or administration of any plan to inform individuals about significant highway or railway incidents.

Sec. 13. Section 8-268 of the 2006 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Whenever a program or project undertaken by a state agency or under the supervision of a state agency will result in the displacement of any person on or after July 6, 1971, the head of such state agency shall make payment to any displaced person, upon proper application as approved by such agency head, for (1) actual reasonable expenses in moving himself, his family, business, farm operation or other personal property, (2) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the state agency, and (3) actual reasonable expenses in searching for a

replacement business or farm, provided, whenever any tenant in any dwelling unit is displaced as the result of the enforcement of any code to which this section is applicable by any town, city or borough or agency thereof, the landlord of such dwelling unit shall be liable for any payments made by such town, city or borough pursuant to this section or by the state pursuant to subsection (b) of section 8-280, and the town, city or borough or the state may place a lien on any real property owned by such landlord to secure repayment to the town, city or borough or the state of such payments, which lien shall have the same priority as and shall be filed, enforced and discharged in the same manner as a lien for municipal taxes under chapter 205.

(b) Any displaced person eligible for payments under subsection (a) of this section who is displaced from a dwelling and who elects to accept the payments authorized by this subsection in lieu of the payments authorized by subsection (a) of this section may receive a moving expense allowance, determined according to a schedule established by the state agency, not to exceed three hundred dollars and a dislocation allowance of two hundred dollars.

(c) Any displaced person eligible for payments under subsection (a) of this section who is displaced from his place of business or from his farm operation and who elects to accept the payment authorized by this subsection in lieu of the payment authorized by subsection (a) of this section, may receive a fixed payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall not be less than two thousand five hundred dollars nor more than ten thousand dollars. In the case of a business no payment shall be made under this subsection unless the state agency is satisfied that the business (1) cannot be relocated without a substantial loss of its existing patronage, and (2) is not a part of a commercial enterprise having at least one other establishment not being acquired by the state, which is engaged in the same or similar business. For purposes of this subsection, the term "average annual net earnings" means one half of any net earnings of the business or farm operation, before federal, state and local income taxes, during the two taxable

years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, or during such other period as such agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such period.

(d) Notwithstanding the provisions of this section, the head of the state agency shall make relocation payments as provided under the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 USC 4601 et seq. and any subsequent amendments thereto and regulations promulgated thereunder if payments under said act would be greater than payments under this section.

Sec. 14. (NEW) (*Effective July 1, 2006*) As used in this section and sections 16 to 23, inclusive, of this act: (1) "Constitutional taking" or "taking" means an action by the state, a municipality or political subdivision of the state or a municipality that results in a taking of private property by eminent domain requiring compensation to the owner of the property pursuant to: (A) The Fifth or Fourteenth Amendments to the Constitution of the United States; or (B) article I, Section 11 of the State Constitution; and (2) "takings law" means the provisions of the federal and state constitutions, case law interpreting such provisions, and any relevant statutory provisions that require a governmental unit to compensate a private property owner for a constitutional taking.

Sec. 15. (NEW) (*Effective July 1, 2006*) (a) There is established an Office of Ombudsman for Property Owners which shall be within the Office of Policy and Management for administrative purposes only. The Office of Ombudsman for Property Owners shall be under the direction of an Ombudsman for Property Owners who shall be appointed in accordance with section 16 of this act. The office shall not appoint any other employees for the discharge of the duties of the office.

(b) The Office of Ombudsman for Property Owners shall:

(1) Develop and maintain expertise in and understanding of (A) provisions of the federal and state constitutions governing the taking of private property and provisions of state law authorizing a state or municipal agency to take private property, and (B) the case law interpreting such provisions;

(2) Assist state and municipal agencies with the power of eminent domain in applying constitutional and statutory provisions concerning takings;

(3) At the request of a state or municipal agency with the power of eminent domain, provide assistance in analyzing actions that have potential takings implications;

(4) Advise private property owners who have a legitimate potential or actual takings claim against a state or municipal agency with the power of eminent domain;

(5) Identify state or local governmental actions that have potential takings implications and, if appropriate, advise the appropriate governmental agency about such implications;

(6) Provide information to private citizens, civic groups and other interested parties about takings law and their rights with respect to takings;

(7) If requested to do so by a private property owner, mediate or conduct or arrange arbitration of disputes between private property owners and governmental agencies involving takings and disputes about relocation assistance;

(8) Assist a private property owner with respect to a dispute involving the effect of municipal regulation of the use and occupancy of real property, except that such assistance shall not include mediation and arbitration unless requested under subdivision (7) of this subsection; and

(9) Recommend to the General Assembly changes that, in the opinion of the Ombudsman for Property Owners, should be made in the laws relating to takings.

Sec. 16. (NEW) (*Effective July 1, 2006*) The Ombudsman for Property Owners shall be appointed by the Governor in accordance with sections 4-5 to 4-8, inclusive, of the general statutes, as amended by this act. The Ombudsman for Property Owners shall be an elector of the state and shall be a person with expertise and experience in the field of real estate sales, real estate appraisals or land use regulation. The Ombudsman for Property Owners shall not have been employed or served in an official capacity with respect to any eminent domain procedure within one year of appointment.

Sec. 17. (NEW) (*Effective July 1, 2006*) (a) The Ombudsman for Property Owners shall provide an arbitration procedure for the settlement of disputes between private property owners and governmental agencies involving takings and disputes about relocation assistance.

(b) Any private property owner may bring a dispute to an arbitration panel by calling a toll-free telephone number designated by the Ombudsman for Property Owners or by requesting an arbitration hearing in writing. The property owner shall file, on forms prescribed by the Ombudsman for Property Owners, any information the Ombudsman for Property Owners deems relevant to the resolution of the dispute.

(c) (1) The Ombudsman for Property Owners shall conduct an initial review of the request for arbitration and determine whether the owners dispute should be accepted or rejected for arbitration based on criteria established by regulations adopted under section 21 of this act. If the Ombudsman for Property Owners declines to arbitrate or appoint an arbitrator, the Ombudsman for Property Owners shall issue a written statement to the applicant specifying the reasons for such decision.

(2) The Ombudsman for Property Owners may appoint a panel to arbitrate a dispute, on the initiative of the Ombudsman for Property Owners or upon agreement of both parties, when: (A) Either party objects to the Ombudsman for Property Owners serving as the arbitrator and agrees to pay for the services of another arbitrator; (B) the Ombudsman for Property Owners declines to arbitrate the dispute for a reason other than those stated in subdivision (8) of subsection (b) of section 15 of this act and one or both parties are willing to pay for the services of another arbitrator; or (C) the Ombudsman for Property Owners determines that it is appropriate to appoint another person to arbitrate the dispute with no charge to the parties for the services of the appointed arbitrator. In appointing another person to arbitrate a dispute, the Ombudsman for Property Owners shall appoint an arbitrator who is agreeable to both parties or agreeable to the party paying for the arbitrator and the Ombudsman for Property Owners.

(3) Upon acceptance of a dispute for arbitration, the Ombudsman for Property Owners shall notify each state or municipal agency participating in the taking of the filing of a request for arbitration. The filer and each such agency shall submit, in writing, on a form prescribed by the Ombudsman for Property Owners, any information the Ombudsman for Property Owners deems relevant to the resolution of the dispute.

(4) The Ombudsman for Property Owners shall investigate, gather and organize all information necessary for a fair and timely decision in each dispute. The Ombudsman for Property Owners may issue subpoenas on behalf of any arbitration panel to compel the attendance of witnesses and the production of documents, papers and records relevant to the dispute. The Ombudsman for Property Owners may forward a copy of all written testimony, including all documentary evidence, to an independent technical expert or to any person having a degree or other credentials from a nationally recognized organization or institution attesting to relevant expertise, who shall review such material and be available to advise and consult with the Ombudsman for Property Owners or arbitration panel. The Ombudsman for

Property Owners or arbitration panel shall, not later than sixty days after the date the request is filed under subsection (b) of this section, render a decision based on the information gathered and disclose the findings and the reasons therefor to the parties involved.

(d) The property owner and state or municipal agency may agree in advance of arbitration that the arbitration shall be binding and that no de novo trial by a court may occur.

(e) Arbitration by or through the Ombudsman for Property Owners is not required before bringing legal action to adjudicate any claim.

(f) The lack of arbitration by or through the Ombudsman for Property Owners does not constitute, and may not be construed to constitute, a failure to exhaust available administrative remedies or as a bar to any legal action. Not more than thirty days after the arbitrator issues a final award, any party may submit the award or any issue upon which the award is based to the court for de novo review, except as provided in subsection (d) of this section.

(g) The filing with the Ombudsman for Property Owners of a request for arbitration of a constitutional taking issue does not stay any land use decision by a municipal agency.

(h) The Ombudsman for Property Owners may not be compelled to testify in a civil action filed with regard to the subject matter of any review or arbitration by the ombudsman.

(i) Evidence of a review by the Ombudsman for Property Owners and the opinions, writings, findings and determinations of the Ombudsman for Property Owners shall not be admissible as evidence in any action subsequently brought in court and dealing with the same dispute.

(j) The Ombudsman for Property Owners may not represent private property owners, the state or any municipality in court or in administrative proceedings under chapter 54 of the general statutes.

Sec. 18. (NEW) (*Effective July 1, 2006*) Each public agency, as defined in section 1-200 of the general statutes, and any entity in this state with the power of eminent domain shall comply with reasonable requests of the Office of Ombudsman for Property Owners for information and assistance.

Sec. 19. (NEW) (*Effective July 1, 2006*) No Ombudsman for Property Owners may:

(1) Be employed by, or hold a position on, any public agency, as defined in section 1-200 of the general statutes, or other entity with the power of eminent domain;

(2) Receive or have the right to receive, directly or indirectly, remuneration under a compensation arrangement with respect to an eminent domain procedure; or

(3) Knowingly accept employment with a public agency or other entity with the power of eminent domain for a period of one year following termination of that person's services with the Office of Ombudsman for Property Owners.

Sec. 20. (NEW) (*Effective July 1, 2006*) (a) The Office of Ombudsman for Property Owners may apply for and accept grants, gifts and bequests of funds from other states, federal and interstate agencies and independent authorities and private firms, individuals and foundations, for the purpose of carrying out its responsibilities.

(b) There is established, within the General Fund, an Ombudsman for Property Owners account that shall be a separate nonlapsing account. Any funds received under this section shall, upon deposit in the General Fund, be credited to said account and may be used by the Office of Ombudsman for Property Owners in the performance of its duties.

Sec. 21. (NEW) (*Effective July 1, 2006*) The Ombudsman for Property Owners shall adopt regulations, in accordance with chapter 54 of the general statutes, to implement sections 16 to 23, inclusive, of this act

and section 4-5 of the general statutes, as amended by this act. Such regulations shall establish criteria to be used by the Ombudsman for Property Owners in determinations accepting or rejecting a dispute for arbitration in accordance with section 17 of this act.

Sec. 22. (NEW) (*Effective July 1, 2006*) Prior to proceeding with the acquisition of real property by eminent domain under any provisions of the general statutes, the agency proposing to acquire the real property shall: (1) Before initiating an eminent domain action, make a reasonable effort to negotiate with the property owner for the purchase of the property; and (2) as early in the negotiation process for the real property as practicable, but no later than fourteen days before the filing of an eminent domain action, unless the court for good cause allows a shorter period before filing: (A) Advise the property owner of the owner's rights to mediation and arbitration under section 23 of this act, including the name and current telephone number of the Ombudsman for Property Owners, established pursuant to sections 16 to 23, inclusive, of this act, and (B) provide the property owner with a written statement explaining that oral representations or promises made during the negotiation process are not binding upon the person seeking to acquire the property by eminent domain.

Sec. 23. (NEW) (*Effective July 1, 2006*) (a) In any dispute between an agency proposing to acquire real property by eminent domain and a private property owner, the private property owner may submit the dispute for mediation or arbitration to the Ombudsman for Property Owners under sections 16 to 23, inclusive, of this act.

(b) An action submitted to the Ombudsman for Property Owners under authority of this section shall not bar or stay any action for occupancy of premises which are the subject of the dispute.

(c) A mediator or arbitrator, acting at the request of the property owner under subdivision (2) of subsection (c) of section 17 of this act, has standing in an action brought in any court concerning the real property that is the subject of the dispute to file with such court a motion to stay the action during the pendency of the mediation or

arbitration. A mediator or arbitrator may not file such a motion unless the mediator or arbitrator certifies at the time of filing the motion that a stay is reasonably necessary to reach a resolution of the case through mediation or arbitration. If a stay is granted and the order granting the stay does not specify when the stay terminates, the mediator or arbitrator shall file with the district court a motion to terminate the stay not more than thirty days after: (1) The resolution of the dispute through mediation; (2) the issuance of a final arbitration award; or (3) a determination by the mediator or arbitrator that mediation or arbitration is not appropriate.

(d) The private property owner or displaced person may request that the mediator or arbitrator authorize an additional appraisal. If the mediator or arbitrator determines that an additional appraisal is reasonably necessary to reach a resolution of the case, the mediator or arbitrator may: (1) Have an additional appraisal of the property prepared by an independent appraiser; and (2) require the agency proposing to acquire the property to pay the costs of the first additional appraisal.

Sec. 24. Section 4-5 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2006*):

As used in sections 4-6, 4-7 and 4-8, the term "department head" means Secretary of the Office of Policy and Management, Commissioner of Administrative Services, Commissioner of Revenue Services, Banking Commissioner, Commissioner of Children and Families, Commissioner of Consumer Protection, Commissioner of Correction, Commissioner of Economic and Community Development, State Board of Education, Commissioner of Emergency Management and Homeland Security, Commissioner of Environmental Protection, Commissioner of Agriculture, Commissioner of Public Health, Insurance Commissioner, Labor Commissioner, Liquor Control Commission, Commissioner of Mental Health and Addiction Services, Commissioner of Public Safety, Commissioner of Social Services, Commissioner of Mental Retardation, Commissioner of Motor

Vehicles, Commissioner of Transportation, Commissioner of Public Works, Commissioner of Veterans' Affairs, Commissioner of Health Care Access, Chief Information Officer, the chairperson of the Public Utilities Control Authority, the executive director of the Board of Education and Services for the Blind, **[**and**]** the executive director of the Connecticut Commission on Culture and Tourism and the Ombudsman for Property Owners.

Sec. 25. Subsection (b) of section 12-62a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2006, and applicable to assessment years commencing on or after October 1, 2006*):

(b) Each such municipality shall assess all property for purposes of the local property tax at a uniform rate of seventy per cent of present true and actual value, as determined under section 12-63. Any municipality with a population of more than eighty thousand, by ordinance adopted by its legislative body, may (1) classify real estate as (A) land or land exclusive of buildings, or (B) buildings on land, and (2) establish a different rate of property tax for each class, provided the higher rate shall apply to land or land exclusive of buildings. As used in this subsection, the term "real estate" does not include farm land, forest land and open space land as such terms are defined in section 12-107b. The provisions of this subsection shall not be construed to authorize a municipality to classify real property for purposes of the local property tax based on the use of such property, except as provided in the general statutes or any special act.

Sec. 26. (*Effective July 1, 2006*) The sum of one hundred fifty thousand dollars is appropriated to the Secretary of the Office of Policy and Management, from the General Fund, for the fiscal year ending June 30, 2007, for the purposes of sections 15 to 23, inclusive, of this act.

This act shall take effect as follows and shall amend the following sections:

Section 1	*from passage and applicable to property acquired on or after said date*	8-125
Sec. 2	*from passage and applicable to property acquired on or after said date*	8-127
Sec. 3	*from passage and applicable to property acquired on or after said date*	8-128
Sec. 4	*from passage and applicable to property acquired on or after said date*	8-129
Sec. 5	*from passage and applicable to property acquired on or after said date*	8-187
Sec. 6	*from passage and applicable to property acquired on or after said date*	8-189
Sec. 7	*from passage and applicable to property acquired on or after said date*	8-191
Sec. 8	*from passage and applicable to property acquired on or after said date*	8-193
Sec. 9	*July 1, 2006*	New section
Sec. 10	*from passage and applicable to property acquired on or after said date*	7-148(c)(3)(A)
Sec. 11	*from passage and applicable to property acquired on or after said date*	32-224
Sec. 12	*from passage*	1-210(b)
Sec. 13	*from passage*	8-268

Sec. 14	*July 1, 2006*	New section
Sec. 15	*July 1, 2006*	New section
Sec. 16	*July 1, 2006*	New section
Sec. 17	*July 1, 2006*	New section
Sec. 18	*July 1, 2006*	New section
Sec. 19	*July 1, 2006*	New section
Sec. 20	*July 1, 2006*	New section
Sec. 21	*July 1, 2006*	New section
Sec. 22	*July 1, 2006*	New section
Sec. 23	*July 1, 2006*	New section
Sec. 24	*July 1, 2006*	4-5
Sec. 25	*October 1, 2006, and applicable to assessment years commencing on or after October 1, 2006*	12-62a(b)
Sec. 26	*July 1, 2006*	New section

PD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 $	FY 08 $
Policy & Mgmt., Off.	GF - See Below	See Below	See Below
Office of Managed Care Ombudsman	GF - Cost	Minimal	Minimal
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	Minimal	Minimal
Various State Agencies	GF - Cost	Potential	Potential

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 07 $	FY 08 $
All Municipalities	See Below	See Below	See Below

Explanation

Office of Property Rights Ombudsman

The bill establishes the Office of Property Rights Ombudsman, within the Office of Policy and Management, for administrative purposes only, and appoints the Property Rights Ombudsman and enumerates his qualifications and duties. It is anticipated that the office would require $125,000 to fund the ombudsman's position [1]. Additionally, the office will require at least $50,000 in Other Expenses to maintain a toll free number, prescribe and distribute forms, issue subpoenas and other administrative functions. The bill prohibits the

[1] The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate as a percentage of payroll is 23.6%, effective July 1, 2005. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2005-06 fringe benefit rate is 34.7%, which when combined with the non pension fringe benefit rate would total 58.3%.

office from appointing any other employees for the discharge of the duties of the office. It is unclear whether the Ombudsman can discharge his duties without additional staff resources, and whether the office can contract for administrative and technical support, which may result in significant costs to the Office of the Property Rights Ombudsman. It is anticipated that the Office of Property Rights Ombudsman will require significant resources to provide an arbitration procedure and appoint another arbitrator in certain circumstances.

The bill permits the Office of Property Rights Ombudsman to apply for and accept grants, gifts and bequests of funds from other states, federal and interstate agencies and independent authorities and private firms, individuals and foundations. Such funds, if any, shall be deposited in a separate non-lapsing account to be used by the Office of Property Rights Ombudsman to perform its duties. It is unknown whether any such funds will be received, thus it is assumed all costs related to the Office of Property Rights Ombudsman will be a cost to the General Fund. No funds for this purpose were included in sHB 5007, the budget bill, as favorably reported by the Appropriations Committee on March 30, 2006.

Split Rate Property Taxes

The bill permits certain municipalities to establish a higher property tax rate for land or land exclusive of buildings. If municipalities adopt such an ordinance, this could increase the amounts such towns claim under the payments in lieu of taxes (PILOT) for state owned property, and private colleges and hospitals. Because the state appropriation for these PILOT grants is insufficient to reimburse municipalities to the statutorily required levels, grants to municipalities are reduced on a pro rata basis. Thus if these municipalities enact such split rate property taxes and increase the rate for land, there is no state fiscal impact because the state grants are limited to the level of appropriation. However, unless the appropriation for the grant is fully

funded, the municipalities who enact a higher tax rate for land will receive increased PILOT payments and correspondingly, the grant to all other towns is decreased.

If municipalities enacting the higher property tax rate on land results in a lower property tax rate for buildings on land, these municipalities will have reduced claims for Property Tax Relief for Elderly Circuit Breaker and Property Tax Relief for Elderly Freeze. Correspondingly, the amount of tax relief these municipalities provide for elderly and totally disabled tax relief will decrease. When the appropriation is sufficient to fully fund these property tax exemptions, a state savings will result. Otherwise, if the appropriation for these exemptions is insufficient all other towns will experience an increase grant, closer to the statutorily required levels.

Additional Changes

The procedural changes in the bill concerning the taking of property are anticipated to have a minimal fiscal impact on municipalities which choose to take property. Allowing payments by municipalities to exceed fair market value is anticipated to be handled within resources, since this action is discretionary.

To the extent state agencies would need to pay the higher of benefits provided under the state and federal uniform relocation assistance act, there would be an increase in costs to state financed projects. The exact impact is indeterminate.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis
sSB 665

AN ACT CONCERNING EMINENT DOMAIN PROCEEDINGS.

SUMMARY:

This bill makes many substantive and procedural changes to the laws governing eminent domain. Some of these changes affect all agencies, while others only apply to municipal development and related agencies.

It requires any agency, before trying to take a property for any type of project, to attempt to negotiate its purchase. It also creates an Office of Ombudsman for Property Owners with specified responsibilities, including arbitrating and mediating disputes between agencies and property owners. It appropriates $150,000 in FY 07 for the ombudsman.

The bill makes a number of changes that apply to eminent domain procedures under plans for redevelopment, municipal development, and manufacturing assistance. It prohibits using eminent domain to acquire real property for a redevelopment or municipal development projects (1) for economic development or (2) if the property contains an owner-occupied dwelling unit that complies with local building and zoning requirements.

For redevelopment and municipal development plans, the bill requires, among other things, the (1) plan to include a determination of whether the proposed land use for each property is for economic development, (2) municipal legislative body to vote separately on each parcel it acquires by purchase or condemnation, and (3) property acquired by eminent domain that is not used for its intended purpose or another public use within five years to be offered for sale to the former owner.

The bill specifies that the amount of compensation redevelopment agencies can pay may exceed the property's fair market value and allows them to consider length of tenure and the loss of a business' good will.

Because some other agencies using eminent domain are governed by the redevelopment laws (e.g., municipal development and harbor improvement agencies), the bill's changes also affect other takings.

The municipal powers statute generally authorizes towns to acquire property for their purposes and for public uses or purposes. The bill eliminates (1) acquisition for a public purpose and (2) the encouragement of private commercial development as an example of a public use or purpose.

The bill requires the Office of Policy and Management (OPM) to create a grant program to reimburse a property owner whose property was taken by eminent domain under the redevelopment or municipal development provisions.

The bill appears to broaden a provision that exempts from disclosure under the Freedom of Information Act (FOIA) real estate appraisals, engineering or feasibility estimates, or evaluations made for or by an agency in connection with a taking.

The bill requires state agencies to pay the higher of the benefits provided under the state and federal Uniform Relocation Assistance acts. By law, agencies already can pay benefits under the federal law for federally assisted programs or projects.

The bill allows large municipalities to tax land at a higher rate than buildings. This provision does not apply to property in the 490 program.

EFFECTIVE DATE: Upon passage with the provisions on municipal powers and redevelopment, municipal development, and manufacturing assistance plans applicable to property acquired starting on that date; the OPM grant program and ombudsman

provisions are effective July 1, 2006; and the tax provision is effective October 1, 2006 and applicable to assessment years starting with that date.

PROVISIONS THAT APPLY ACROSS AGENCIES

§ 22 - Pre-Condemnation Negotiations

Under the bill, before any agency can proceed to acquire real property by eminent domain under any provisions of the statutes, it must:

1. make a reasonable effort to negotiate with the property owner to buy the property;

2. advise the owner of his rights to mediation and arbitration under the bill, including the name and telephone number of the ombudsman; and

3. give the owner a written statement explaining that oral representations or promises made during negotiations do not bind the agency seeking to acquire the property by eminent domain.

The agency must take steps two and three as early in the negotiation process as practicable, but no later than 14 days before filing an eminent domain action, unless the court allows a shorter period for good cause.

§§ 14-21, 23-24 - Office of Ombudsman for Property Owners

The bill creates this office and places it within OPM for administrative purposes only. All state and municipal agencies and any entity with the power of eminent domain must comply with the office's reasonable requests for information and assistance. The office can apply for and accept grants, gifts, and bequests of funds from a wide variety of sources, including the federal government, businesses, and foundations, to carry out its responsibilities. The bill creates a nonlapsing property rights ombudsman account in the General Fund.

The office must be directed by an ombudsman for property owners, appointed by the governor and subject to confirmation by the legislature. The ombudsman must be an elector of the state who has expertise and experience in real estate sales, real estate appraisals, or land use regulation. He may not have been employed or served in an official capacity with respect to any eminent domain procedure in the year before his appointment. He may not represent private property owners, the state, or any municipality in court or in administrative proceedings under the Uniform Administrative Procedures Act. The office may not appoint any other employees to discharge its duties.

The ombudsman may not:

1. be employed by, or hold a position in, any public agency or other entity with the power of eminent domain;

2. receive or have the right to receive, directly or indirectly, remuneration under a compensation arrangement with respect to an eminent domain procedure; or

3. knowingly accept employment with a public agency or other entity with the power of eminent domain for one year after leaving the office.

He must adopt implementing regulations establishing criteria he will use in determining whether to accept or reject a dispute for arbitration.

Responsibilities. The bill gives the office a wide range of responsibilities, including:

1. helping state and municipal agencies with eminent domain power to apply constitutional and statutory provisions on takings, including analyzing actions that have potential takings implications;

2. advising private property owners who have a legitimate potential or actual takings claim against such agencies;

3. providing information to private citizens, civic groups, and other interested parties about takings law (constitutional and statutory provisions on takings that require compensation, and related case law) and their rights with respect to takings;

4. if requested to do so by a property owner, mediate or conduct or arrange arbitration of disputes between the owner and agencies involving takings and disputes about relocation assistance;

5. helping property owners in disputes involving the effect of municipal regulation on the use and occupancy of real property; and

6. recommending changes in takings law to the legislature.

Arbitration and Mediation. The ombudsman must provide an arbitration procedure to settle disputes between private property owners and government agencies involving takings and disputes about relocation assistance. Any property owner may bring a dispute to an arbitration panel by calling a toll-free telephone number designated by the ombudsman or by requesting an arbitration hearing in writing. The owner must file, on forms the ombudsman prescribes, any information the ombudsman considers relevant to the dispute resolution. The ombudsman must conduct an initial review of the arbitration request and determine whether the dispute should be accepted or rejected based on regulatory criteria he establishes. If he declines to arbitrate or appoint an arbitrator, he must issue a written statement to the applicant specifying his reasons.

The ombudsman may appoint a panel to arbitrate a dispute, on his own initiative or with the agreement of the parties, if: (1) either party objects to the ombudsman serving as the arbitrator and agrees to pay for another arbitrator; (2) the ombudsman declines to arbitrate the dispute for a reason other than those in the bill and one or both parties are willing to pay for another arbitrator's services; or (3) the ombudsman determines that it is appropriate to appoint someone else

to arbitrate the dispute with no charge to the parties. If the ombudsman appoints another person as arbitrator, the person must be agreeable either to both parties or the ombudsman and the party paying for the arbitrator.

After he accepts a dispute for arbitration, the ombudsman must notify each agency participating in the taking of the filing. The filer and the agencies must submit, on a form the ombudsman prescribed, any information he considers relevant to the dispute resolution. The ombudsman must gather the information needed for a fair and timely decision in each dispute. He can issue subpoenas on behalf of any arbitration panel to compel the attendance of witnesses and the production of documents, papers, and records relevant to the dispute. He can send a copy of all written testimony, including all documentary evidence, to an independent technical expert or to any person with a degree or other credentials from a nationally recognized organization or institution attesting to relevant expertise. The third-party must review the material and be available to advise and consult with the ombudsman or the panel. The ombudsman or panel must, within 60 days from when the request is filed, (1) render a decision based on the information gathered and (2) disclose the findings and the reasons for it to the parties involved.

A person can bring a legal action without going through arbitration. The lack of arbitration does not constitute a failure to exhaust available administrative remedies or bar any legal action. On the other hand, filing a request for arbitration of a constitutional taking issue does not stay any municipal land use decision.

The property owner and the agency may agree in advance that the arbitration is binding and that no *de novo* trial by a court may occur. Otherwise, within 30 days after the arbitrator issues a final award, any party may submit the award or any issue upon which it is based to the court for *de novo* review.

The ombudsman cannot be compelled to testify in a civil action on the subject matter of his reviews or arbitrations. Evidence of a review

by the ombudsman and his opinions, writings, findings, and determinations are not admissible as evidence in any subsequent court action dealing with the same dispute.

The bill allows property owners to seek mediation from the ombudsman of their disputes with taking agencies under the above procedures. A mediator or arbitrator acting at the owner's request has standing to request a court handling any action on the property to issue a stay while the arbitration or mediation is pending. The arbitrator or mediator can file this motion only if he certifies that a stay is needed to resolve the dispute through arbitration or mediation. Seeking a stay does not bar or stay an action for occupancy of premises (eviction). If the stay is granted for an unlimited time, the arbitrator or mediator must file with the "district court" a motion to terminate the stay within 30 days of when (1) the dispute has been resolved by mediation, (2) a final arbitration award has been issued, or (3) the arbitrator or mediator determines that arbitration or mediation is not appropriate.

The bill also allows a property owner or person displaced by the project to ask the arbitrator or mediator to authorize an additional appraisal. If the arbitrator or mediator determines that this is reasonably necessary to resolve the case, he can have another appraisal made by an independent appraiser and require the agency to pay for the cost of the first additional appraisal.

§ 12 - Appraisals and FOIA

Under current law, real estate appraisals, engineering or feasibility estimates, and evaluations connected to agency acquisition of property or public works contracts are not subject to disclosure under FOIA until the property has been acquired or the acquisition process or transactions have been terminated or abandoned. However, disclosure provisions in eminent domain law supersede this exception.

The bill instead exempts appraisals, estimates, or evaluations made for or by an agency regarding a condemnation from the provisions of

CGS § 1-210, which requires disclosure of all public records other than those specifically exempted from disclosure. As a result, the bill appears to exempt these documents from disclosure under FOIA, even after the acquisition has ended.

§§ 1-4 - REDEVELOPMENT PLANS

The bill makes a number of changes regarding redevelopment plans. These changes apply to property acquired starting on the date the bill passes.

Plans

The bill bars redevelopment plans from (1) covering areas that are deteriorating, as distinct from deteriorated; substandard; or detrimental to the community's safety, health, morals, or welfare and (2) including properties not contiguous to each other.

It requires these plans to include a determination of whether the proposed land use for each property is for economic development. It defines economic development as a use that increases jobs, the tax base, tax revenues, or the general economic health. But a use could serve this purpose and not constitute economic development if the property:

1. is abandoned;

2. will be transferred to a private entity that will remove the public health and safety threats, including public nuisances or structures beyond repair or unfit for people to inhabit or use;

3. will be transferred to public ownership or a railroad; or

4. will be leased to a private entity for an accessory use in a public project.

The bill requires that plans produced by redevelopment agencies include a preliminary statement describing how each parcel covered by a plan will be acquired. By law, agencies must hold a hearing on their plans. The bill requires an agency to post its draft plan on the

agency's Website (if it has one) at least 35 days before the hearing.

Municipal Legislative Body Approval

The bill requires that there be a separate vote on the purchase or condemnation of each parcel to be acquired in accordance with a redevelopment plan. It bars acquiring any parcel by eminent domain more than five years after approval of the plan unless the agency submits documentation to the legislative body sufficient for it to determine that this acquisition is necessary to implement the plan.

Offer for Sale After Five Years

The bill requires property acquired by eminent domain that is not used for its intended purpose or another public use within five years to be offered for sale to the person from whom it was acquired or that person's known or ascertainable heirs, successors, or assigns. It limits the price to no greater than the amount in the recorded findings, less the value of any structures or improvements the agency or its designee removed after acquiring the property. It allows the agency to retain or sell the property to another person if the previous owner or his heirs, successors, or assigns does not purchase it.

Appraisals, Filing Deadlines, and Compensation

When a redevelopment agency records a statement of compensation on the land records to take a property, it must notify all those listed in the land records as owners or holders of mortgages, liens, assessments, or other encumbrances or interests. The bill requires the redevelopment agency to provide each person with a copy of each appraisal of the property prepared for the agency.

The bill extends, from 12 to 45 days, the minimum period that must pass from when a redevelopment agency files its notice of proposed compensation to the property owner and when it can actually take the property. By law, the maximum period is 90 days.

By law, agencies must compensate owners for the property they take. The bill specifies that the amount of compensation may exceed the property's fair market value. It allows an agency, in determining

this amount, to consider any factor it deems relevant, including the number of years of ownership and lost good will. It defines "good will" as the benefits a business gains from its location, reputation for dependability, skill, or quality and any other circumstances resulting in probable retention of old or acquisition of new patronage.

§§ 5-8 - DEVELOPMENT PLANS

In the case of development agencies, the bill requires that the plan meet an identified public need and describe the process the agency used to prepare the plan, along with alternative approaches it considered to achieve project objectives. By law, the plan must describe the number of jobs and housing units to be created. The bill additionally requires a description of other public benefits of the project, including:

1. an estimate of the amount of local tax revenue the project would generate;

2. the project's infrastructure improvements, including public access, facilities, or use;

3. any blight or environmental remediation;

4. any aesthetic improvements the project would generate;

5. the project's role in increasing or sustaining market value of land in the municipality;

6. the project's role in helping municipal residents improve their standard of living; and

7. the project's role in maintaining or enhancing the municipality's competitiveness.

The bill also makes many of the same changes to the municipal development process as it made to the redevelopment process. It requires:

1. the plan to include a determination of whether the proposed land use for each property is for economic development,

2. the plan to describe the acquisition process,

3. the draft plan to be posted on the Internet,

4. a separate vote on each parcel to be acquired,

5. further documentation of necessity to the legislative body in order to take property by eminent domain more than five years after plan approval, and

6. an offer to sell the property back to it's previous owner if it is not used within five years.

These changes apply to property acquired starting on the date the bill passes.

§ 11 - MANUFACTURING ASSISTANCE ACT

In the case of plans written for purposes of the Economic Development and Manufacturing Assistance Act, the bill requires that the plan meet an identified public need, describe the process the agency used to prepare it, describe alternative approaches the agency considered to achieve project objectives. By law, the plan must describe the project's economic benefits, including the number of jobs and housing units to be created and its estimated property tax benefits. The bill instead calls this a statement of public benefit and additionally requires a description of:

1. the project's infrastructure improvements, including public access, facilities, or use;

2. any blight or environmental remediation;

3. any aesthetic improvements the project would generate;

4. the project's role in increasing or sustaining market value of land in the municipality;

5. the project's role in helping municipal residents improve their standard of living; and

6. the project's role in maintaining or enhancing the municipality's competitiveness.

The bill requires an agency to post its draft plan on the agency's Website (if it has one) at least 35 days before the hearing.

§ 9 - OPM GRANT PROGRAM

The bill requires OPM to create a grant program to reimburse a property owner whose property was taken by eminent domain under the redevelopment or municipal development provisions for 2/3 of the reasonable costs from a legal action contesting the acquisition. These costs include attorney's fees. Grants are paid after final disposition of the legal action. OPM must adopt regulations to administer the grants, including provisions on applications, eligibility, and documenting costs.

This provision takes effect July 1, 2006, but it reimburses anyone whose property was acquired by eminent domain under the relevant provisions. It is unclear whether the reimbursement applies to takings in the past or only those occurring after July 1.

§ 25 - SPLIT RATE PROPERTY TAX

The bill allows any municipality with a population of more than 80,000 to establish a different property tax rate for (1) undeveloped land or developed land exclusive of buildings and (2) buildings, with the higher rate applying to the former. These provisions do not apply to farm, forest, or open space land in the 490 program. The eligible municipalities are: Bridgeport, Hartford, New Haven, Norwalk, Stamford, and Waterbury, according to the Census Bureau's 2004 estimates. The bill states that it cannot be construed to authorize a municipality to classify real property for purposes of the property tax based on its use, except as provided in the general statutes or a special act.

BACKGROUND

Uniform Relocation Assistance Acts

There are separate state and federal relocation assistance laws. The federal law applies to a state project if federal funding is involved.

The acts provide similar benefits, for example, moving costs and, for specified periods, a payment towards the higher rent or mortgage that a relocated person must pay following relocation. In a number of cases, the benefits are higher under the federal law than under state law.

Related Bills

sSB 34 (File 260) makes several changes in eminent domain law including (1) distinguishing takings for economic development from other takings and imposing a higher procedural standard on the former, (2) allowing aggrieved parties to appeal a legislative body's approval of development or redevelopment plans to the courts, and (3) requiring the taking agency to show that public interests clearly outweigh the individual property owner's interests and cannot be protected by reasonable changes to the affected area.

HB 5810 (File 504) (1) eliminates the power to acquire property by eminent domain for municipal development projects and under the Economic Development and Manufacturing Assistance Act, (2) creates an Office of Property Rights Ombudsman, and (3) adds a list of types of property that can be considered deteriorated property in the Neighborhood Revitalization Zone Act.

Related Case

In *Kelo v. City of New London,* the U.S. Supreme Court ruled that New London could take privately owned properties for private development under its economic revitalization plan (125 S.Ct. 2655, June 23, 2005). The Court held that since the plan served a public purpose, it satisfied the U.S. Constitution's public use requirement, which bans government from taking land for public use without just compensation. Relying on prior decisions, the Court interpreted public

use as being the equivalent of "public purpose."

The decision upheld the Connecticut Supreme Court's 2004 *Kelo* decision (268 Conn. 1), which found that New London's actions did not violate either the Connecticut or the U.S. constitutional bans against taking property for public uses without just compensation.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable
Yea 38 Nay 0 (03/24/2006)

Planning and Development Committee

Joint Favorable Substitute
Yea 17 Nay 0 (04/19/2006)